

# Law Offices of Gregory J. Vogt, PLLC

2121 EISENHOWER AVENUE  
SUITE 200  
ALEXANDRIA, VA 22314

www.vogtlawfirm.com

April 28, 2009

Gregory J. Vogt  
703.838.0115 (office)  
703.684.3620 (fax)  
gvogt@vogtlawfirm.com

## EX PARTE PRESENTATION

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Transfer of Control of Embarq Corp. to CenturyTel, Inc., WC Docket No.  
08-238

Dear Ms. Dortch:

CenturyTel, Inc. (“CenturyTel”) submits this response to the letter filed by Bresnan Communications, LLC, in the above-captioned docket.<sup>1</sup> Bresnan repeats the concerns that have been raised by interconnecting parties in this docket, and to which the merging parties have fully responded.<sup>2</sup> CenturyTel, however, hereby responds to specific allegations that have not been made elsewhere in this docket.

Bresnan requests that conditions be placed on the instant merger because it has experienced difficulties with interconnection services offered by CenturyTel. It alleges that these difficulties are caused by anticompetitive motives. These accusations are false, and the rhetoric used by its counsel is unsupported by the facts and is a gross distortion of actual CenturyTel motivations and practices. CenturyTel is committed to compliance with FCC and state rules and its interconnection contracts.

Bresnan complains that it is unable to obtain customer information from CenturyTel’s automated customer service record (“CSR”) system and it must order manual CSRs in order to obtain customer information to submit an order to CenturyTel.<sup>3</sup> Bresnan admits that it is able to obtain the information it needs when

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<sup>1</sup> Letter from Michael H. Pryor, Counsel for Bresnan, to Marlene H. Dortch, FCC, WC Docket No. 08-238 (Apr. 20, 2009)(“Bresnan Ex Parte”).

<sup>2</sup> Joint Reply Comments of CenturyTel, Inc. and Embarq Corporation, WC Docket No. 08-238, at 20-28 (Jan. 23, 2009)(“CenturyTel/Embarq Joint Reply”); Letter from Gregory J. Vogt & Samuel L. Felder, Counsel for CenturyTel, Inc. & Embarq Corp., respectively, to Marlene H. Dortch, FCC, WC Docket No. 08-238, at 2 (Apr. 10, 2009)(“CenturyTel/Embarq Competition Ex Parte”).

<sup>3</sup> Bresnan Ex Parte at 4.

Marlene H. Dortch  
April 28, 2009  
Page 2

it asked CenturyTel about the issue.<sup>4</sup> The automated system which Bresnan refers to is only useful for residential or single-line business customers. As Bresnan has been told on the phone, for more complex orders, CenturyTel must produce a written CSR, which it is happy to do upon request. Bresnan fails to identify any law, rule or interconnection contract provision that CenturyTel is violating, and there are none. Thus, this issue does not justify the imposition of any conditions on the instant merger.

Bresnan argues that CenturyTel delays number porting by “repeatedly rejecting” porting orders rather than identifying all mistakes at once.<sup>5</sup> It indicates that sometimes these rejections are made due to CenturyTel errors and not Bresnan errors. Bresnan identifies one example where a customer’s order was rejected on repeated occasions, delaying order processing.<sup>6</sup> CenturyTel has experienced a significant increase in order volume for competitor orders which has recently impacted its processes. As it indicated in other filings, much of the CLEC processing speeds are impacted by CenturyTel’s manual ordering processes, because it has not had sufficient orders to justify automating its process further. CenturyTel has made firm commitments in this docket to not only automate wholesale processes in 15 months after merger closing, but also to add resources to address current porting volumes.<sup>7</sup> These commitments should go a long way toward satisfying Bresnan’s concerns.

Bresnan also argues that CenturyTel “routinely requires six business days” to port numbers for simple ports.<sup>8</sup> This accusation is patently false. First,

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<sup>4</sup> *Id.* at 5.

<sup>5</sup> *Id.* at 6. Bresnan indicates that CenturyTel began rejecting orders for failure to provide NPA/NXX information. However, it admits that CenturyTel helped it to solve this issue, even though it continues to complain that it does not like the processing requirements. Again, Bresnan does not point to any law, rule, or interconnection contract provision which is being violated.

<sup>6</sup> *Id.* at 7.

<sup>7</sup> CenturyTel/Embarq Competition Ex Parte at 2. CenturyTel regrets the difficulties experienced in the one example provided alleging repeated errors found in a customer order submitted by Bresnan. CenturyTel submits that such an example is an extremely unusual circumstance that is not representative of normal operations. Given the lack of details, CenturyTel is unable to investigate the issue because it does not know what order was involved. Thus, it cannot determine whether its processes were at fault or whether Bresnan may have contributed to the situation. CenturyTel encourages Bresnan to identify the purchase order number involved with this end user so that management may review the issues and work with Bresnan to avoid any future difficulties.

<sup>8</sup> Bresnan Ex Parte at 7.

Marlene H. Dortch  
April 28, 2009  
Page 3

CenturyTel's policy is to port numbers in the interval specified by the FCC's rules unless the requesting carrier specifies a greater interval. Second, Bresnan is invited to submit the specific information which it has on this issue so that CenturyTel can evaluate it and adequately respond to it. Third, according to CenturyTel's records, prior to March 2009, it was meeting the due dates provided by the CLECs when numbers should be ported. In CenturyTel's experience, a significant portion of the orders it receives request a number porting date greater than four days. A recent audit uncovered examples from 8 to 29 days, which is far beyond the FCC's four day due date. In many other circumstances CLECs themselves request a delay in the porting number for their own reasons, such as when they are not ready to handle the new customer. Thus, any statistic which uses the actual porting interval will be significantly lengthened by such extended porting conversion date requests, and these statistics do not represent either a violation of FCC rules or interference with CLEC business. Fourth, as stated previously, CenturyTel's commitments to improve its processes now, and after conversion, should fully remedy any delays that were experienced by Bresnan.

Bresnan argues that CenturyTel has unreasonable service order charges.<sup>9</sup> These service order charges are established at the state level in interconnection contracts and in tariffs. If Bresnan has a specific complaint about a charge, its complaint should be registered with the state authority which permitted or approved such rates.

Finally, Bresnan argues that CenturyTel "disparages" Bresnan's services. Specifically, the only allegation it makes is that one of its service representatives overheard a phone conversation between one of its new customers and CenturyTel, where an unnamed CenturyTel representative stated that calls to 911 do not work with Bresnan's services.<sup>10</sup> Bresnan then claims that this same statement had been made by another unnamed CenturyTel representative to another customer.<sup>11</sup> Even accepting these unverified assertions at face value, two isolated circumstances do not indicate an anticompetitive motive or a violation of law. CenturyTel does not condone its employees making untruthful comments on the specific abilities of competitor's services and would take appropriate steps to address any such behavior uncovered. Since Bresnan does not identify the CenturyTel employee, or even what jurisdiction the alleged actions occurred in, it is impossible for CenturyTel to investigate or defend itself against such an accusation. If Bresnan provides specific information to CenturyTel, it will investigate, and take disciplinary actions if the investigation warrants such a response.

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<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 9.

<sup>11</sup> *Id.*, Declaration of Todd Brester, at ¶ 3.

*Law Offices of Gregory J. Vogt, PLLC*

Marlene H. Dortch  
April 28, 2009  
Page 4

The CenturyTel/Embarq transaction is in the public interest. Nothing raised by Bresnan would justify delaying, denying, or conditioning the merger. Given this record and Commission practice, the Commission should approve this transaction expeditiously and without conditions.

In accordance with 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket.

Sincerely,

*/s/ Gregory J. Vogt*

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Gregory J. Vogt  
Counsel for CenturyTel, Inc.